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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,389	05/25/2001	Jacob Richter	2390/49704	1194
7590 DOROTHY R. AUTH CADWALADER, WICKERSHAM & TAFT LLP ONE WORLD FINANCIAL CENTER NEW YORK, NY 10281			EXAMINER BUI, VY Q	
			ART UNIT 3773	PAPER NUMBER
			MAIL DATE 10/01/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/864,389

Applicant(s)

RICHTER ET AL

Examiner

Vy Q. Bui

Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 6, 8, 11, 26, 28, 42-47 and 49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 6, 8, 11, 26, 28, 42-47 and 49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Objections

Claims 45-47 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim 1. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 6, 11, 26, 42-47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al.-6,776,793 B2 in view of Burpee et al.-6,179,868 B1.

As to claims 1, 6, 11, 26, 42-47 and 49, Brown-'793 (Fig. 2) discloses stent 110 substantially as recited in the claims including:

- (1). loop containing sections/bands of higher frequency,
- (2). loop containing sections/bands of lower frequency
- (3). loop containing sections/bands of higher frequency and loop containing sections/bands of lower frequency disposed one between the other;

except for the loop containing sections/bands of lower frequency having struts that are circumferentially wider than struts of loop containing sections/bands of higher frequency.

However, Burpee-868 (Fig. 3) discloses stent 40 including loop containing sections/bands 20 of lower frequency having wider struts to enhance radial strength, and loop containing sections/bands 30 of higher frequency having narrower struts to enhance the flexibility of the stent 40 when deployed in a tortuous vessel.

In view of Burpee-793, it would have been obvious to one of ordinary skill in the art to modify Brown-793's stent 110 to have loop containing sections/bands 30 of higher frequency having narrower struts in comparison to the struts of the loop containing sections/bands of lower frequency to enhance the flexibility of the stent 40 when deployed in a tortuous vessel.

2. Claims 3, 8 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al-6,776,793 B2 in view of Burpee et al.-6,179,868 B1 and further in view of Yang et al.-6,120,847.

As to claims 3, 8 and 28, a combination of Brown et al-6,776,793 B2 in view of Burpee et al.-6,179,868 B1 discloses substantially all limitations recited in the claims, except for the stent is coated with a medicine for treatment purpose.

However, coating a stent with a medicine or drug is well known in the art. For example, YANG discloses a method for coating a therapeutic substance on the surface of the stent for local treatment of a blood vessel. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a medicine coating to a stent combined of Brown et al-6,776,793 B2 in view of Burpee et al.-6,179,868 B1 for the medicine distributed directly to the treatment site of a blood vessel.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vy Q. Bui/
Primary Examiner, Art Unit 3773